

**PT 02-36**

**Tax Type: Property Tax**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

**GOOD NEWS PARTNERS,  
APPLICANT**

**v.**

**ILLINOIS DEPARTMENT  
OF REVENUE**

**Nos. 00-PT-0088  
(99-16-1765)**

**Real Estate Tax Exemption for  
1999 Assessment Year**

**P.I.N: 11-30-213-034**

**Cook County Parcel**

**Alan I. Marcus  
Administrative Law Judge**

**RECOMMENDATION FOR DISPOSITION  
PURSUANT TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT**

**APPEARANCE:** Mr. Matthew Kim-Miller of McDermott, Will & Emery on behalf of Good News Partners (hereinafter the "Applicant").

**SYNOPSIS:** This matter comes to be considered pursuant to applicant's motion for summary judgment. Applicant filed this motion after the Illinois Department Of Revenue (hereinafter the "Department") issued a determination in this matter on November 2, 2000. Said determination found that real estate identified by Cook County Parcel Index Number 11-30-213-034, was not "actually and exclusively used for charitable or beneficial purposes," as required by Section 15-65 of the Property Tax Code (35 ILCS 200/1-1, *et seq.*), during the 1999 assessment year.

The underlying controversy arises as follows:

Applicant filed a Real Estate Tax Exemption Complaint with the Cook County Board of Review (hereinafter the "Board") on January 18, 2000. The Board reviewed applicant's complaint and recommended to the Department that the requested exemption be denied. The Department then issued its determination in this matter, finding that the subject property is not in exempt use, on November 2, 2000. Applicant filed a timely appeal as to this denial and then filed this motion for summary judgment. Following a careful review of that motion and its supporting documentation, I recommend that the Department's initial determination in this matter be reversed.

**FINDINGS OF FACT:**

1. The Department's jurisdiction over this matter and its position therein are established by the determination, issued by the Office of Local Government Services on November 2, 2000, finding that the subject property is not in exempt use.
2. The Office of Administrative Hearings issued the subject property an exemption from 1998 real estate taxes pursuant to the Recommendation for Disposition in Administrative Docket Number 99-PT-0048, issued by the Director of Revenue September 25, 2000. Administrative Notice.
3. The Cook County Assessor granted a Certificate of Error, finding that the subject property "should have been assessed as 100% exempt" for the 2000 assessment year," on April 8, 2002. Administrative Notice.
4. Applicant's use of the subject property did not change throughout the 1998, 1999 and 2000 assessment year. Applicant Motion Ex. No. 1.

### **CONCLUSIONS OF LAW:**

Summary judgment is appropriate where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. 735 **ILCS** 5/2-1005(c). There are no contested facts in this case. Therefore, the issue for decision herein necessarily becomes one of law. Evangelical Alliance Mission v. Department of Revenue, 164 Ill. App.3d 431, 439 (2<sup>nd</sup> Dist. 1987). That issue is, precisely stated, whether applicant's use of the portion in dispute qualifies as being "exclusively ... charitable or beneficent" within the meaning of Section 15-65 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.* 15-65.

The Recommendation for Disposition in Administrative Hearings Docket Number 99-PT-0048 establishes that the subject property was in exempt use throughout the 1998 assessment year. Furthermore, the Certificate of Error issued by the Cook County Assessor on April 8, 2002 establishes that the subject property was likewise exempt throughout the 2000 assessment year.

As a technical matter, each tax year constitutes a separate cause of action for exemption purposes. (People ex rel. Tomlin v. Illinois State Bar Ass'n, 89 Ill. App.3d 1005, 1013 (4<sup>th</sup> Dist. 1980)). However, concern for administrative and judicial efficiency dictates that this doctrine ought not be applied in an excessively technical manner. Hence, from a practical standpoint, it stands to reason that real estate which has been regularly and continuously used for exempt purposes in three consecutive tax years beginning in 1998 should also be in exempt use for the tax year currently in question, which is 1999. Therefore, the Department's determination in this matter should be reversed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate real estate identified by and situated on Cook County Parcel Index Number 11-30-213-034 be exempt from 1999 real estate taxes under Section 15-65 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

May 14, 2002  
Date

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Alan I. Marcus  
Administrative Law Judge